IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
TUESDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE S.ANANDA REDDY
WRIT PETITION NO : 10071 of 2004

Between:

M/s T.P. Associates, a Partnership Firm, Plot No1 and 2, Survey No.485, West Marredpally, Picket, Secunderabad rep. by its partner, K Venkata Prasad, S/o. K.Raghuramappa 38 years R/o. No.11 Road No.72 Prashasan Nagar, Jubilee Hills, Hyderabad.

..... PETITIONER

AND

1 Commissioner of Prohibition and Excise, A.P, Hyerabad
2 Prohibition and Excise Superintendent, Hyderabad District at Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of certiorari or any other appropriate writ and quash the order of the respondent in Cr.No.C1/6554/203/ESH dated 14-5-2004 and direct the respondents to grant IL-17 Licence to the petitioner in respect of premises bearing No.Plot No.1 and 2, Sy. No.485, West Marredpally, Picket, Secunderabad and grant such other relief as it deems fit in the circumstances of the case.

Counsel for the Petitioner: MR.V.VENKATARAMANA

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court made the following:

ORDER:

This writ petition is filed by the petitioner aggrieved by the impugned order dated 14.05.2004 under which it was informed by second respondent that the petitioner's application for grant of IL-17 licence was rejected by first respondent-Commissioner of Prohibition & Excise, A.P., Hyderabad, on the ground that a case was registered under Section 34 (a) and 36 (c) of A.P. Excise Act, 1968 (for short 'the Act'). Further according to second respondent, licence under the Act is only a matter of grace and citizens have no fundamental right for grant of licence.

2. According to the learned counsel, under the rules framed under A.P. Indian Liquor and Foreign Liquor Rules, 1970 (for short 'the Rules'), registration of a case is not a disqualification for grant of IL-17 licence. Therefore, it is contended by the learned counsel for the petitioner that in the absence of any specific prohibition under the provisions of the Act and the Rules, the respondent-authorities are not entitled to reject for grant of IL-17 licence on that ground. The learned counsel

also took serious objections as to the observation of second respondent that the grant of licence is a matter of grace and citizens have no fundamental right for the same. According to the learned counsel, issuance as well as rejection of a licence is governed by the law as contained in the Act and the Rules made thereunder and is not a matter of grace of the concerned authority. In so far as fundamental right is concerned, every citizen has got a fundamental right to carry on business in accordance with law. When the provisions of the Act and the Rules made thereunder provides for grant of licence, a citizen is entitled to demand for grant of licence in accordance with the provisions of the Act and the authorities are equally bound by the provisions of the Act and the Rules and it is not their grace for grant of licence. Therefore it is contended that the impugned order is illegal and unsustainable.

3. The learned Government Pleader for Prohibition & Excise, however, contended that the premises of the petitioner where he was earlier carrying on the business in the name of a firm, was seized and it was kept under lock and key and the petitioner is not entitled for running the bar and restaurant even if a licence is granted. Therefore, sought for dismissal of the writ petition.

4. Heard both sides and considered the material on record.

5. Here we are not concerned with other factual aspects of the case. The petitioner made an application for grant of IL-17 licence in the name and style of M/s.T.P.Associates (Hotel Sarojini Devi). The said application is rejected by first respondent on the ground that a case was registered in COR.No.22, dated 07.01.2003 by Station House Officer, Mareedpally under Section 34 (a) and 36 (c) of the Act. The communication given by second respondent dated 14.05.2004 also shows that grant of licence is a matter of grace and the petitioner has no fundamental right in seeking to grant such licence. The said observations are clearly illegal and unsustainable. The registration of a case against the petitioner as alleged by the respondents, is not a disqualification nor is there any prohibition for grant of licence when a case is registered under the provisions of the Act. Prohibition is only when a person is convicted for any offence under the provisions of the Act.

6. Under the above circumstances, the communication of second respondent dated 14.05.2004 including the proceedings of first respondent dated 27.02.2004, are set aside and the matter is restored to the file of first respondent to pass appropriate orders without taking into account the pendency of the case registered against the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

7. Accordingly, the writ petition is disposed of. No costs.

22nd June, 2004

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

To

1. The Commissioner of Prohibition and Excise, A.P, Hyerabad.
2. The Prohibition and Excise Superintendent, Hyderabad District at Hyderabad.
3. Two CCs to the Government Pleader for Prohibition & Excise, High Court Buildings, Hyderabad. (OUT)
4. Two CD copies.

Note: Furnish CC in three days.